IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1759 OF 2006

Rajesh Balkrishna Yadav & anr. ..Petitioners.

Vs.

Dr. Narendra Baburao Kanchankoti & anr. ..Respondents.

....

Mr.N D. Hombalkar for the Petitioners.

CORAM: DR. D.Y. CHANDRACHUD, J.

13th June, 2006.

P.C. :

1. The First Appellate Court was of the view that the landlord had established that he bonafide requires the tenanted premises for his own use and occupation as an incident of his medical practise. A decree for eviction has accordingly been passed.

2. The Plaintiff Narendra is a medical Doctor and the evidence demonstrates that he conducts a Maternity and Nursing home in the suit building. The landlord has been practising there since 1968 and 11 rooms on the first floor of the building are in his possession. Those rooms were used as General Ward, Waiting Hall, as an Operation theatre, for consultation, for a store, for patients and for a pantry. A recovery room is needed adjacent to

the Operation theatre. There is no separate room for deliveries. There is no room for nursing staff. One room was required for visiting doctors and one room was required for relatives of the patients. There is no separate room for a clinical laboratory which was required. Plaintiff No.2 who is the son of the First Plaintiff Narendra is a Homeopath. The Second Plaintiff's wife is also a Homeopath and it was stated that they needed consulting rooms as well. The First Appellate Court has duly appreciated all the evidence on the record. The point of comparative hardship has also been answered against the tenant on the ground that several other premises are available for the tenant in the vicinity. The Second Defendant is also carrying on the business of a hair cutting saloon in the C. P. R. hospital. The point of comparative hardship is, therefore, answered against the tenant. These findings of fact are borne out from the record and do not warrant interference under Article 227. The Petition is dismissed. However, in the facts and circumstances of the case, time to vacate the premises is granted to the Petitioner until 31st December, 2006, subject to the filing of the usual undertaking within a period of four weeks.